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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,002	03/11/2002	Wayne Douglas Luke	X-11506	6427

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ELI LILLY AND COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

EXAMINER

TUCKER, ZACHARY C

ART UNIT PAPER NUMBER

1624

DATE MAILED: 06/10/2003

9.

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,002

Applicant(s)

LUKE, WAYNE DOUGLAS

Examiner

Zachary C. Tucker

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

Claims 13 and 15 have been cancelled.

Status of Previously Stated Claim Rejections

The obviousness-type double patenting rejection, set forth in the Office action dated 21 January 2003 (paper 6), has been overcome by the Terminal Disclaimer over US 5,631,639.

Claim Rejections - 35 USC § 102

The rejection of claims 1-12 and 14 is maintained.

Applicant's response is not persuasive. The argument is on the grounds that because manufacturers and laboratory personnel make efforts to rigorously exclude moisture from hygroscopic bases, and that these efforts are independently performed and combinable. Applicant also points out that Aldrich Handbook of Fine Chemicals lists different types of potassium carbonate, one of which is the sesquihydrate, and that one of ordinary skill in the art does not consider these different types of potassium carbonate to be interchangeable without effect. The point is then made that these two facts taken together signify that the examiner's position has no merit.

The arguments presented do not rebut the position put forth by the examiner, which was that because potassium carbonate is a hygroscopic substance, therefore traces of potassium sesquihydrate will form spontaneously from ambient humidity, which means some trace of hydrated potassium carbonate is present in the procedures exemplified in EP 0 699 672 and US 5,631,369.

The examiner did not state in the previous Office action that one of ordinary skill in the art would assume that interchanging different grades of potassium carbonate would have no effect on processes wherein the substance is employed.

Instant claim 1 specifies that the hydrated inorganic base is present. The examiner has shown that said hydrated inorganic base is present.

Despite all of the manufacturer's efforts, once a container of potassium carbonate is opened, hydration starts to occur. On page 6 of the response, a statement in agreement with the examiner's position appears, "Without the efforts by the manufacturer, scientists, and other laboratory personnel to rigorously exclude water (moisture) including but not limited to calcinations, all potassium carbonate may be considered hydrated."

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication should be directed to Zachary Tucker whose telephone number is (703) 305-2050. The examiner can normally be reached Monday-Friday from 7:00am to 3:30pm. If Attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mukund Shah, can be reached at (703) 308-4716. The fax number for the organization where this application or proceeding is assigned is (703) 308-4556 for regular communications and (703) 308-4242 for after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

zt



Mukund Shah
Supervisory Patent Examiner
Art Unit 1624